

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 501

Introduced by Assembly Member Campos

February 15, 2011

An act to amend Section 3540.1 of the Government Code, relating to public school employment.

LEGISLATIVE COUNSEL’S DIGEST

AB 501, as amended, Campos. Public school employment.

(1) Under existing law, public school employees have the right to form, join, and participate in activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Existing law defines the term “public school employer” or “employer” for the purposes of negotiations on collective bargaining agreements covering public school employees, as the governing board of a school district, a school district, a county board of education, a county superintendent of schools, or certain charter schools. Existing law also authorizes public agencies to agree to join together as joint powers agencies for specified purposes.

This bill would expand the definition of “public school employer” or “employer” to include *specified auxiliary organizations established by the California Community Colleges*, and joint powers agencies created as an entity separate from the parties to the joint powers agreement with separate employees that meet certain additional criteria. By requiring *community college auxiliary organizations and* joint powers agencies to engage in collective bargaining with their separate employees, this bill would impose a state-mandated local program.

(2) Existing law defines the term “exclusive representative” as the employee organization recognized or certified as the exclusive negotiating representative of certificated or classified employees in an appropriate unit of a public school employer.

This bill would change the definition of “exclusive representative” to the employee organization recognized or certified as the exclusive negotiating representative of all public school employees, as defined. To the extent that this would increase the duties on school districts *or community college districts* with respect to collective bargaining, it would impose a state-mandated local program.

(3) This bill would make various technical, nonsubstantive changes.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3540.1 of the Government Code is
2 amended to read:
3 3540.1. As used in this chapter:
4 (a) “Board” means the Public Employment Relations Board
5 created pursuant to Section 3541.
6 (b) “Certified organization” or “certified employee organization”
7 means an organization that has been certified by the board as the
8 exclusive representative of the public school employees in an
9 appropriate unit after a proceeding under Article 5 (commencing
10 with Section 3544).
11 (c) “Confidential employee” means an employee who is required
12 to develop or present management positions with respect to
13 employer-employee relations or whose duties normally require
14 access to confidential information that is used to contribute
15 significantly to the development of management positions.
16 (d) “Employee organization” means an organization that
17 includes employees of a public school employer and that has as

1 one of its primary purposes representing those employees in their
2 relations with that public school employer. “Employee
3 organization” shall also include any person of the organization
4 authorized to act on its behalf.

5 (e) “Exclusive representative” means the employee organization
6 recognized or certified as the exclusive negotiating representative
7 of public school employees, as “public school employee” is defined
8 in subdivision (j), in an appropriate unit of a public school
9 employer.

10 (f) “Impasse” means that the parties to a dispute over matters
11 within the scope of representation have reached a point in meeting
12 and negotiating at which their differences in positions are so
13 substantial or prolonged that future meetings would be futile.

14 (g) “Management employee” means an employee in a position
15 having significant responsibilities for formulating district policies
16 or administering district programs. Management positions shall
17 be designated by the public school employer subject to review by
18 the Public Employment Relations Board.

19 (h) “Meeting and negotiating” means meeting, conferring,
20 negotiating, and discussing by the exclusive representative and
21 the public school employer in a good faith effort to reach agreement
22 on matters within the scope of representation and the execution,
23 if requested by either party, of a written document incorporating
24 any agreements reached, which document shall, when accepted
25 by the exclusive representative and the public school employer,
26 become binding upon both parties and, notwithstanding Section
27 3543.7, is not subject to subdivision 2 of Section 1667 of the Civil
28 Code. The agreement may be for a period of not to exceed three
29 years.

30 (i) “Organizational security” is within the scope of
31 representation, and means either of the following:

32 (1) An arrangement pursuant to which a public school employee
33 may decide whether or not to join an employee organization, but
34 which requires him or her, as a condition of continued employment,
35 if he or she does join, to maintain his or her membership in good
36 standing for the duration of the written agreement. However, an
37 arrangement shall not deprive the employee of the right to terminate
38 his or her obligation to the employee organization within a period
39 of 30 days following the expiration of a written agreement.

(2) An arrangement that requires an employee, as a condition of continued employment, either to join the recognized or certified employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization for the duration of the agreement, or a period of three years from the effective date of the agreement, whichever comes first.

(j) “Public school employee” or “employee” means a person employed by a public school employer except persons elected by popular vote, persons appointed by the Governor of this state, management employees, and confidential employees.

(k) “Public school employer” or “employer” means the governing board of a school district, a school district, a county board of education, a county superintendent of schools, a charter school that has declared itself a public school employer pursuant to subdivision (b) of Section 47611.5 of the Education Code, *an auxiliary organization established pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of Division 7 of Title 3 of the Education Code, except an auxiliary organization solely formed as or operating a student body association or student union*, or a joint powers agency, except a joint powers agency established *solely* to provide services pursuant to Section 990.8, if all the following apply to the joint powers agency:

(1) It is created as an agency or entity that is separate from the parties to the joint powers agreement pursuant to Section 6503.5.

(2) It has its own employees separate from employees of the parties to the joint powers agreement.

(3) Any of the following are true:

(A) It provides *educational* services primarily performed by a school district, county board of education, or county superintendent of schools.

(B) A school district, county board of education, or county superintendent of schools is designated in the joint powers agreement pursuant to Section 6509.

(C) It is comprised solely of ~~school~~ *educational* agencies.

(l) “Recognized organization” or “recognized employee organization” means an employee organization that has been recognized by an employer as the exclusive representative pursuant to Article 5 (commencing with Section 3544).

1 (m) “Supervisory employee” means an employee, regardless of
2 job description, having authority in the interest of the employer to
3 hire, transfer, suspend, lay off, recall, promote, discharge, assign,
4 reward, or discipline other employees, or the responsibility to
5 assign work to and direct them, or to adjust their grievances, or
6 effectively recommend that action, if, in connection with the
7 foregoing functions, the exercise of that authority is not of a merely
8 routine or clerical nature, but requires the use of independent
9 judgment.

10 SEC. 2. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.